

SENATE BILL No. 458

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2; IC 13-30-4.

Synopsis: Environmental civil penalties. Prohibits the department of environmental management from imposing a civil penalty on a state agency or political subdivision for violating an environmental law if: (1) the state agency or political subdivision has commenced substantial steps to correct the violation; and (2) the violation committed by the state agency or political subdivision was not an intentional, willful, or criminal act or a violation of a requirement for which the department has previously issued a notice or warning of violation to the state agency or political subdivision, for this or a prior violation, to correct the violation.

Effective: July 1, 2007.

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January 11, 2007, read first time and referred to Committee on Energy and Environmental Affairs.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 458

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-164 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 164. (a) "Political
3 subdivision", for purposes of IC 13-18-13, means:
4 (1) a political subdivision (as defined in IC 36-1-2);
5 (2) a regional water, sewage, or solid waste district organized
6 under:
7 (A) IC 13-26; or
8 (B) IC 13-3-2 (before its repeal July 1, 1996); or
9 (3) a local public improvement bond bank organized under
10 IC 5-1.4.
11 (b) "Political subdivision", for purposes of IC 13-18-21, means:
12 (1) a political subdivision (as defined in IC 36-1-2);
13 (2) a regional water, sewage, or solid waste district organized
14 under:
15 (A) IC 13-26; or
16 (B) IC 13-3-2 (before its repeal July 1, 1996);
17 (3) a local public improvement bond bank organized under

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1 IC 5-1.4;

2 (4) a qualified entity described in IC 5-1.5-1-8(4) that is a public
3 water utility described in IC 8-1-2-125; or

4 (5) a conservancy district established for the purpose set forth in
5 IC 14-33-1-1(a)(4).

6 (c) "Political subdivision", for purposes of IC 13-19-5, has the
7 meaning set forth in IC 36-1-2-13 and includes a redevelopment district
8 under IC 36-7-14 or IC 36-7-15.1.

9 **(d) "Political subdivision", for purposes of IC 13-30-4, has the**
10 **meaning set forth in IC 36-1-2-13.**

11 SECTION 2. IC 13-11-2-219.1 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2007]: **Sec. 219.1. "State agency", for**
14 **purposes of IC 13-30-4, means an authority, a board, a branch, a**
15 **commission, a committee, a department, a division, or another**
16 **instrumentality of state government.**

17 SECTION 3. IC 13-30-4-1 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Subject to
19 IC 13-14-6 and except as provided in **section 5 of this chapter**,
20 IC 13-23-14-2, and IC 13-23-14-3, a person who violates:

21 (1) any provision of:

22 (A) environmental management laws;

23 (B) air pollution control laws;

24 (C) water pollution control laws;

25 (D) IC 13-18-14-1; or

26 (E) a rule or standard adopted by one (1) of the boards; or

27 (2) any determination, permit, or order made or issued by the
28 commissioner under:

29 (A) environmental management laws or IC 13-7 (before its
30 repeal);

31 (B) air pollution control laws or IC 13-1-1 (before its repeal);

32 or

33 (C) water pollution control laws or IC 13-1-3 (before its
34 repeal);

35 is liable for a civil penalty not to exceed twenty-five thousand dollars
36 (\$25,000) per day of any violation.

37 (b) The department may:

38 (1) recover the civil penalty described in subsection (a) in a civil
39 action commenced in any court with jurisdiction; and

40 (2) request in the action that the person be enjoined from
41 continuing the violation.

42 SECTION 4. IC 13-30-4-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Subject to IC 13-14-6 and except as provided in **section 5 of this chapter**, IC 13-23-14-2, and IC 13-23-14-3, a person who:

(1) is named in or directed by an emergency order under IC 13-14-10-1; and

(2) violates the order;

is liable for an additional civil penalty not to exceed five hundred dollars (\$500) per hour of violation.

(b) The additional civil penalty described in subsection (a) shall be assessed in an action brought by the commissioner in any court with jurisdiction.

SECTION 5. IC 13-30-4-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. The department or commissioner may not impose a civil penalty on a state agency or political subdivision under this chapter if:**

(1) the state agency or political subdivision has commenced substantial steps to correct the violation committed by the state agency or political subdivision; and

(2) the violation committed by the state agency or political subdivision was not:

(A) an intentional, willful, or criminal act; or

(B) a violation of a requirement for which the department has previously issued a notice or warning of violation to the state agency or political subdivision, for this or a prior violation, to correct the violation.

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